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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,990	12/01/2003	Yoshio Tomoda	42760-0200	4923

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EXAMINER	
TRAN LIEN, THUY	

ART UNIT	PAPER NUMBER
1761	

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06/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/725,990	TOMODA ET AL.	
	Examiner	Art Unit	
	Lien T. Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *34-43 and 45-58* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *34-43, 45-58* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claims 35, 50, 51,55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 35, it is not clear if " salt of said compounds" belongs within the Markush group or not because the claim recited " and taurine or a salt of said compounds".

Claim 50 is vague and indefinite. What does applicant mean by within the range of 120 degree C. If the temperature is only at one point, what does applicant mean by " within a range" because a range indicates more than one value.

Claim 51 is vague and indefinite because the temperature is outside of the value cited in claim 50; it is not seen how claim 51 further limits claim 50.

In claim 55: Line 5, " ad" is misspelled.

The new rejection is necessitated by amendment.

Claims 34-43, 45-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teh et al. in view of Jaegg.i

Teh et al disclose a process of preparing flavored noodles. The process comprises the steps of preheating flavor ingredients, adding the flavor ingredient to a dough, sheeting the dough, slitting the dough sheet to form strips, steaming the strips and frying the strips to form noodles. The flavor ingredients may be one or more of peptides, amino acids, yeast extract, cysteine, thiamine etc... The noodles are fried in a fryer at temperature of 125-170 degree C for 20-100 seconds and packaged along with seasoning sachet. The amount of flavor ingredient added to the dough is in the range of .1-5%. (see col. 1 lines 45-65, col. 3 lines 49-56)

Teh et al do not disclose the amino acids as claimed, packaging the noodles in a cup, the food recited in claim 47 and the amount of acrylamide in claim 54.

Jaeggi discloses processes for preparing flavoring compositions. They teach to incorporate amino acids in the flavoring compositions. The amino acids that can be used are those listed on column 2 lines 7-20.

The property of having decreased acrylamide content and the amount of acrylamide is inherent in the fried product disclosed by Teh et al because they disclose the step of adding an amino acid compound to the noodles prior to frying. Teh et al teach any amino acids can be added; thus, it would have been obvious to one skilled in the art to use other kind of amino acid such as glycine, taurine, lysine or alanine because such amino acids are known flavor enhancing agents as shown by Jaeggi. It would also have been obvious to package the noodles in the cup to make a ready to eat product. Such packaging is notoriously well known as there are many commercially available noodle cups. It would also have been obvious to use the noodles for preparation of other food product; for example, it is common to boil the noodles and use it as an ingredient in preparation of various noodle dishes. The amount of acrylamide claimed is inherent in the Teh et al product because it contains the same additive and is subjected to the same cooking method.

Claims 34-37,39,40,42,43, 45-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yajima et al.

Yajima et al disclose a process for producing foods having good keeping qualities. The process comprises the steps of adding to food anhydrofructose and then

heating the food. Heating of foods means heating for cooking by steaming, boiling, frying etc... Along with the anhydrofrustose, other additives including amino acids such as glycine, cystin, alanine, arginine and lysine is added. The foods include fried foods,noodles, bread, etc... The foods are not limited and include foods that are subjected to heating. The amount of amino acid added is .01-100 parts by weight. The heating temperature can vary and can be in the range of 50-250 degree C. The additives may be incorporated into the food ingredients or the food may be immersed into an aqueous solution containing the additives or the aqueous solution may be sprayed onto the food. (see col. 4 lines 44-50, col. 5 lines 6-18, col. 6, and col 7., col. 8 lines 48-51)

Yajima et al does not specifically recite preparing a fried noodles, the types of food as in claims 46-47, sealing noodles in a cup and the acrylamide content.

The property of having decreased acrylamide content and the amount of acrylamide is inherent in the fried product disclosed by Yajima et al because they disclose the step of adding an amino acid compound to the noodles prior to frying. Yajima et al disclose the additives are added to many different types of food product; thus, it would have been obvious to one skilled in the art to add to noodles to make fried noodle or any other food products when it is desired to obtain the benefit disclosed by Yajima in the food product. Yajima et al disclose the foods are subjected to heating including frying; thus, it would have been obvious to make fried noodle. It would also have been obvious to package the noodles in the cup to make a ready to eat product. Such packaging is notoriously well known as there are many commercially available

noodle cups. Yajima et al teach that the additives can be added by dipping the food in the aqueous solution or spraying the aqueous solution on the food. Thus, it would have been obvious to add the additives to the noodles after steaming by spraying or dipping. The amount of acrylamide claimed is inherent in the Yajima et al product because it contains the same additive and is subjected to the same cooking method. It would have been obvious to use the amino acid or salt thereof because such usage is known in the art.

The change in the rejections is necessitated by amendment.

In the response filed 3/30/07, applicant argues none of the three cited references mentions in any way that the purpose of adding certain amino acids before frying or heating would reduce the formation of acrylamide. This argument is not persuasive. While the references do not disclose the reduction in acrylamide, both Teh et al and Yajima et al teach adding amino acids to food products before frying and the amino acid are some of the same amino acids claimed. The decrease in acrylamide is a property resulting from the addition of the amino acid; thus, it is inherent the prior art will have the same property and applicant has not submitted any evidence to show to the contrary. Teh et al teach adding any amino acids and the Jaeggi reference is relied upon to show the types of amino acids that can be added in the Teh et al product. The Jaeggi reference is not relied upon to show adding amino acid to food product before frying.

With respect to the Yajima et al reference, applicant argues that the addition of 1,5D-anhydrofructose increases the acrylamide versus the food without it. Applicant's submits a declaration to support the argument. The declaration and the argument are

not found to be persuasive. First of all, Yajima et al do not teach adding the anhydrofructose as the only embodiment. They also teach adding amino acids along with the anhydrofructose. The declaration does not have any data to show the testing; there are no data on how the testing is carried out and how the measurement is taken. The declaration only contains conclusion without any supportive data. Conclusion does not equate to evidence. There is no testing of product containing both anhydrofructose and amino acids. Paragraph 4 states the experiments that were done; however, the declaration does not show any experiments. Thus, the value of such experiments cannot be determined. It cannot be determined what would be considered as " commercially less acceptable". In conclusion, the declaration does not give any data to support applicant's argument or to show unexpected results.

Applicant's arguments filed 3/30/07 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 31, 2007

Ltran

LIEN TRAN
PRIMARY EXAMINER
Group 1700